

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. CIV-93-1134-LH/LFG

CIBOLA COUNTY, NEW MEXICO;
CIBOLA COUNTY BOARD OF
COMMISSIONERS; ELMER CHAVEZ,
BENNIE COHOE, FRANK EMERSON,
ANTONIO GALLEGOS, EDWARD
MICHAEL, and JANE PITTS, Members
of the Cibola County Board of
Commissioners; and EILEEN M.
MARTINEZ, Cibola County Clerk.

Defendants.

SECOND ORDER
EXTENDING AND MODIFYING STIPULATION AND ORDER
ORIGINALLY ENTERED APRIL 21, 1994

Before BALDOCK, Circuit Judge, and CONWAY and HANSEN, Senior District
Judges.*

PER CURIAM.

* This three judge panel is convened in accordance with 28 U.S.C. § 2284 and 42 U.S.C. § 1973aa-2.

Plaintiff United States initiated this action in September 1993 alleging violations of the Voting Rights Act of 1965 (VRA) against Defendants Cibola County, New Mexico, and its duly elected officials. According to the complaint, VRA violations arose from election practices and procedures adversely affecting Native Americans residing in Cibola County. Pursuant to a court-approved “Stipulation and Order” (decree), the United States has kept careful watch over Cibola County’s electoral process for the past thirteen years. The Court entered the original decree in this case directing Defendants’ compliance with the VRA on April 21, 1994. Upon the decree’s expiration ten years hence, the Court on May 3, 2004, modified and extended the decree at the parties’ behest. The first order modified and extended the original decree through December 31, 2006. Now before the Court is the parties’ joint motion for a second order modifying and extending the decree through January 15, 2009. Cibola County and its duly elected officials concede that, although “some progress” has been made, they remain in violation of the VRA and the Court’s decree. Pursuant to an amended complaint filed January 31, 2007, the county and its officials further concede their voting practices and procedures violate the National Voter Registration Act of 1993 (NVRA) and the Help America Vote Act of 2002 (HAVA).¹

The Court grants the parties’ joint motion (doc. # 88), and incorporates into this order their Amended Joint Stipulation and Native American Election Information Program (doc. # 89). The decree originally entered on April 21, 1994, and first modified on May 3, 2004,

¹ Defendants stipulated to the filing of the amended complaint. See Fed. R. Civ. P. 15(a).

is hereby modified and extended a second time. The Court shall retain jurisdiction over the second modified and extended decree through January 15, 2009, after which date the parties should be prepared for the entry of final judgment herein. Cibola County and its duly elected officials are hereby directed to come into complete compliance with the VRA, NVRA and HAVA by that date. The parties are forewarned that, after thirteen years, the time for Defendants to fully comply with federal law is now. If Defendants are not in complete compliance with the VRA, NVRA and HAVA on January 15, 2009, the Court shall direct Defendants to show cause why they should not be held in contempt of this Court's decree. See United States v. McKinley County, 941 F. Supp. 1062, 1065 (D.N.M. 1996) ("Entry of a consent decree is a discretionary exercise of judicial power enforceable by contempt.").

SO ORDERED.

Entered for the Court
this 19th day of March, 2007

Bobby R. Baldock
United States Circuit Judge

John E. Conway
Senior United States District Judge

C. LeRoy Hansen
Senior United States District Judge